

REMARKS

Reconsideration of the application in light of the following amendments and remarks is respectfully requested.

Status of the Claims

Claims 34-44, 46-50 and 52-64 are pending. No new matter has been added.

Claims 1-33 and 51 were previously cancelled without prejudice or disclaimer of the subject matter contained therein.

Claim 45 has been cancelled without prejudice or disclaimer of the subject matter contained therein.

Claims 34-44, 46-50, and 52-63 have been amended. Support for the amendments can be found in Figures 1-20, 37-44, 49-64, 69-96, and 109-116.

Claims 63 and 64 has been added. Support for claims 63 and 64 can be found in the Specification at page 49, lines 10-16; page 50, lines 21-23; and in Figures 17-20, 61-64, and 77-88.

Rejection under 35 U.S.C. §102

Claims 34-37, 39-43, 45, 47-51, and 54-62 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,367,708 to Fujimoto. Applicants respectfully traverse the rejection.

The Examiner contends that Fujimoto discloses a garment comprising a first and second stretchable portion wherein the first section has a greater straining force than the second. In response to Applicants' Remarks of December 30, 2005, the Examiner states that:

submit that claims 35-36, 39-43, 45, 48-51, 54, 56-57, and 59-60 are patentable for at least the same reasons as discussed above with respect to their respective base claim. Applicants respectfully request reconsideration and withdrawal of the rejection.

Claims 38, 44, 46, 52, and 53 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,829,058 to Dicker et al. ("Dicker"). Applicants respectfully traverse the rejection.

The Examiner contends that Dicker's bands either partially or completely cover the claimed areas of Applicants' claims. Specifically, the Examiner contends that Dicker "disclose a band (36) which extend straight down and is capable of being position [sic] at a positioned [sic] on a medial side of a knee joint, if so desired. The examiner further note [sic] that a combination of the bands 36 and 38 would cover the claimed areas of the invention, as well." (Detailed Action, page 3, paragraph 2.)

Applicants respectfully note that according to MPEP § 2131, in order to anticipate a claim, the reference must teach each and every element of the claim. Furthermore, the Federal Circuit has found that "the identical invention must be shown in as complete detail as is contained in the . . . claim," *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989). Applicants respectfully submit that Dicker fails to meet these requirements.

Dicker's bands 36, 46, and 38 do not cover the ligamentum collaterale on a medial side of the knee joint and do not extend obliquely from a superior side of the knee joint through the anterior surface of the corresponding thigh and along the portion of the corresponding musculus sartorius, as recited in the independent claims 34 and 47. Furthermore, Dicker's obliquely extending band, illustrated on the left leg of the wearer, starting from the upper edge of skates 16, extends from the

lateral side to the medial side. Thus, Dicker's obliquely extending band extends in the opposite direction to the first stretchable portion of the claimed invention. Accordingly, Applicants submit that none of Dicker's bands 36, 46, 38, and the obliquely extending band disclose or suggest the first stretchable portion of the claimed invention. Therefore, Dicker does not anticipate the invention recited in the claims.

Applicants submit that neither Fujimoto nor Dicker, alone or in combination, disclose each and every feature recited in independent claims 34, 37, and 47. Neither Fujimoto nor Dicker disclose each and every feature recited in dependent claims 38, 44, 46, 52, and 53. Accordingly, Applicants submit that claims 38, 44, 46, 52, and 53 are patentable for at least the same reasons as discussed above with respect to their respective base claim. Applicants respectfully request reconsideration and withdrawal of the rejection.

The Examiner further states in the Office Action:

As to applicant pointing out that other patents refer to specific muscle groups of the human body in order to reference the location of positions of the claimed garment. The examiner responds as follows: The claims to not specifically point out that the patent was granted because of the location of specific claimed elements in the claims, the patent may have been granted because of certain other features. (Detailed Action, page 2, paragraph 5.)

Applicants respectfully direct the Examiner's attention to U.S. Patent Application Serial No. 10/088,719 ("the '719 Application"). The '719 Application has been allowed, and a copy of the allowed claims is attached hereto in Appendix A. The Examiner states in the Reasons for Allowance (copied attached hereto in Appendix B):

The following is an examiner's statement of reasons for allowance: The relevant prior art does not disclose or fairly suggest the claimed garment having a first strong straining portion that covers over the furthest dorsal or posterior portion of the bulge of each buttock; or the

CONCLUSION

Each and every point raised in the Final Office Action dated May 1, 2006 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 34-44, 46-50, and 52-64 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: June 30, 2006

Respectfully submitted,

By 

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AMENDMENTS TO THE CLAIMS

1. (Allowed): A garment comprising a stretch fabric wherein the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is adapted to be worn by being fitted to the wearer's body, wherein:

the garment in part has a portion with a strong straining force;

the portion with a strong straining force is a first strong straining portion;

wearer's right and left parts of the first portion are connected at a position on the back side of the garment adapted to correspond to any region from os sacrum to vertebrae lumbalis of the wearer's body; and

the first portion is adapted to cover a region extending from said position through the furthest dorsal point of bulge of each buttock in the direction of muscle fibers of musculus gluteus maximus to at least the vicinity of trochanter major at wearer's right and left.

2. (Allowed): The garment according to claim 1, further comprising a second strong straining portion, wherein:

right and left parts of the second portion are connected at a position on the garment adapted to correspond to musculus rectus abdominis in a hypogastric region; and

the second portion is adapted to cover a region extending obliquely downward from the position on musculus rectus abdominis in a hypogastric region approximately in the direction of muscle fibers of musculus obliquus internus abdominis at wearer's right and left to at least the vicinity of trochanter major.

Claims 3-6 (Cancelled).

7. (Allowed): A garment comprising:

a stretch fabric wherein the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is adapted to be worn by being fitted to the wearer's body; a first strong straining portion with a strong straining force, wherein wearer's right and left parts of the first portion are connected at a position on the back side of the garment and adapted to correspond to any region from os sacrum to vertebrae lumbalis of the wearer's body;

the first portion is adapted to cover a region extending from said position through tops of bulges of the buttocks or vicinities thereof approximately in the direction of muscle fibers of musculus gluteus maximus at wearer's right and left to at least the vicinity of trochanter major;

a second strong straining portion; and

a third strong straining portion adapted to press the abdomen;

wherein the third portion has a main stretch direction in the longitudinal direction of the garment;

the third portion being adapted to cover the center of hypogastric region;

an end of the second portion is connected to each of the right and left lower sides of the third portion; and

the second portion being adapted to cover a region extending obliquely downward from the right and left lower sides of the third portion approximately in the directions of muscle

musculus obliquus externus abdominis at wearer's right and left to at least a position exceeding the sides of the wearer to the back side.

9. (Allowed): A garment comprising:

a stretch fabric wherein the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is adapted to be worn by being fitted to the wearer's body;

a first strong straining portion with a strong straining force,

wherein right and left parts of the first portion are connected at a position on the back side of the garment adapted to correspond to any region from os sacrum to vertebrae lumbalis of the wearer's body;

the first portion is adapted to cover a region extending from said position through tops of bulges of the buttocks or vicinities thereof approximately in the direction of muscle fibers of musculus gluteus maximus at wearer's right and left to at least the vicinity of trochanter major;

a second strong straining portion;

a third strong straining portion is adapted to press the abdomen, and

a fourth strong straining portion,

wherein the third portion has a main stretch direction in the longitudinal direction of the garment;

the third portion is adapted to cover the center of a hypogastric region;

an end of the second portion is connected to each of right and left lower sides of the third portion;

the second portion is adapted to cover a region extending obliquely downward from the right and left lower sides of the third portion approximately in the direction of muscle fibers of musculus obliquus internus abdominis at wearer's right and left to at least the vicinity of trochanter major;

an end of the fourth portion is connected to each of right and left upper sides of the third portion; and

the fourth portion is adapted to cover a region extending obliquely upward from the right and left upper sides of the third portion approximately in the direction of muscle fibers of musculus obliquus externus abdominis at wearer's right and left to at least a position exceeding the sides of the wearer to the back side.

Claims 10-12 (Cancelled).

13. (Allowed): The garment according to claim 1, wherein:

the second portion also has a fifth strong straining portion; and

the fifth portion is adapted to cover further a region extending from the vicinity of trochanter major through a lower part of the bulges of the buttocks.

14. (Allowed): The garment according to claim 1, wherein:

the second portion also has a sixth strong straining portion ; and

the sixth portion is adapted to cover further a region extending from the vicinity of trochanter major through at least a part of hamstrings in regio femoralis posterior.

a fourth strong straining portion,[[,]]

wherein right and left parts of the fourth portion are connected at a position on the garment adapted to correspond to musculus rectus abdominis in a hypogastric region; and

the fourth portion is adapted to cover a region extending obliquely upward from the position on musculus rectus abdominis in a hypogastric region approximately in the direction of muscle fibers of musculus obloquies externus abdominis at wearer's right and left to at least a position exceeding the sides of the wearer to the back side.

27. (Allowed): A garment comprising:

a stretch fabric wherein the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is adapted to be worn by being fitted to the wearer's body;

a first strong straining portion with a strong straining force,

wherein right and left parts of the first portion are connected at a position on the back side of the garment adapted to correspond to any region from os sacrum to vertebrae lumbalis of the wearer's body;

the first portion is adapted to cover a region extending from said position through tops of bulges of the buttocks or vicinities thereof approximately in the direction of muscle fibers of musculus gluteus maximus at wearer's right and left to at least the vicinity of trochanter major; and

a seventh strong straining portion ,

wherein right and left parts of the seventh portion are connected approximately in the vicinity of a position on the garment adapted to correspond to the back center of the waist; and

32. (Allowed): The garment according to 28, further comprising:

an eleventh strong straining portion in which the fourth portion and the seventh portion are united and continuous.

33. (Allowed): The garment according to claim 1, wherein a strong straining portion is formed by laminating a cloth on the front side or back side of a main body fabric of the garment.

34. (Allowed): The garment according to claim 1, wherein a strong straining portion is formed by changing a stitch for knitting a main body fabric of the garment to form a weak straining portion and a strong straining portion in patterns.

35. (Allowed): The garment according to claim 1, wherein a strong straining portion is formed by laminating a film of a synthetic resin or rubber having elasticity on a predetermined part of a main body fabric of the garment or by impregnating or coating a predetermined part of a main body fabric of the garment with a solution or emulsion of a synthetic resin or rubber having elasticity followed by drying.

36. (Allowed): The garment according to claim 1, wherein a strong straining portion has a straining force of 150 to 400 gf.

37. (Allowed): The garment according to claim 1, wherein the stretch fabric is a knitted fabric selected from a two-way stretch tricot and a stretch raschel.

38. (Allowed): The garment according to claim 1, wherein:

the garment comprises a stretch fabric,

the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is worn by being fitted to the wearer body, and

the garment is selected from a girdle, spats, sports tights, bodysuit, leotard and swimsuit.

39. (Allowed): The garment according to claim 1, wherein:

the garment comprises a stretch fabric,

the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is worn by being fitted to the wearer body, and

the garment has a leg part for cylindrically covering regio femoralis of the wearer body to at least a position lower than the crotch part.

40. (Allowed): The garment according to claim 1, wherein:

the garment comprises a stretch fabric,

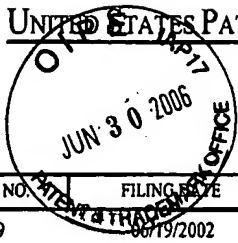
the garment is adapted to cover at least a part of the lower body of a wearer, has a crotch part, and is worn by being fitted to the wearer body,

the position of a lower end of the garment is approximately the same as or higher than the position of the crotch part; and

point of each buttock at right and left sides of the garment, and reaching at least the vicinity of trochanter major .



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10/088,719	06/19/2002	Takako Fujii	M2096-4	5004
7278	7590	04/21/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			WIEKER, AMANDA FLYNN	
			ART UNIT	PAPER NUMBER
			3743	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Supplemental Notice of Allowability

Application No.	Applicant(s)	
10/088,719	FUJII ET AL.	
Examiner	Art Unit	
Amanda F. Wieker	3743	

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- ☒ This communication is responsive to the IDS filed on 3/15/06.
- ☒ The allowed claim(s) is/are 1-2, 7-9, 13-14 and 25-42.
- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - ☒ All
 - ☐ Some*
 - ☐ None of the:
 - ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
- ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>3/15/06</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

Henry Bennett
Supervisor/Patent Examiner
Group 3700



Art Unit: 3743

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 15 March 2006 was filed after the mailing date of the Notice of Allowance on 22 February 2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Allowable Subject Matter

2. Claims 1-2, 7-9, 13-14 and 25-42 are allowed.

3. The following is an examiner's statement of reasons for allowance: The relevant prior art does not disclose or fairly suggest the claimed garment having a first strong straining portion that covers over the furthest dorsal or posterior portion of the bulge of each buttock and extends to trochanter major on the wearer's right and left; or the claimed combination of a first strong straining portion along with various other strong straining portions (second, third, fourth, seventh, eighth, ninth or tenth).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3743

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda F. Wieker whose telephone number is 571-272-4794. The examiner can normally be reached on Monday-Thursday, 7:30 - 5:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amanda F. Wieker
Examiner
Art Unit 3743


afw


Henry Bennett
Supervisor/Patent Examiner
Group 3700